

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

TIMOTHY J. BRITT,

Petitioner,

vs.

SCOTT FRAKES,

Respondent.

**8:21CV474**

**MEMORANDUM AND ORDER**

This matter is before me on Petitioner's renewed motion for discovery (filing 30) and motion for extension of time (filing 29).

In the renewed motion for discovery (filing 30), Petitioner essentially asks the court to reconsider its previous denial of Petitioner's request for discovery and additional documents outside the state court record. (*See* Filing 28.) Petitioner asserts that because he did not receive a hearing in his state postconviction proceedings to develop the record, "denial of discovery would deny Petitioner the opportunity to present evidence of clear and convincing evidence of Petitioner[']s innocence." (Filing 30.) Upon careful consideration of Petitioner's Exhibits C, D, E, G, and H upon which he seeks additional discovery, and for the reasons outlined in the court's previous Memorandum and Order (filing 28), Petitioner's motion for discovery is denied as it fails to satisfy the requirements of 28 U.S.C. § 2254(e).

Petitioner also filed a motion for extension of time seeking an additional 30 days to file his brief in response to Respondent's answer and brief. (Filing 29.) Presently, Petitioner's brief is due on October 3, 2022. (*See* Filing 28 at CM/ECF p. 6.) Upon consideration, Petitioner's motion for extension of time will be granted, and Petitioner shall have until November 2, 2022, to file his brief in response.

IT IS THEREFORE ORDERED that:

1. Petitioner's renewed motion for discovery (filing 30) is denied.
2. Petitioner's motion for extension of time (filing 29) is granted. Petitioner shall have until November 2, 2022, to file his brief in response to Respondent's answer and brief.
3. The Clerk of Court is directed to set a pro se case management deadline using the following text: **November 2, 2022**: check for Petitioner's brief in response.

Dated this 20th day of September, 2022.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge